

§ 301.6033-1

26 CFR Ch. I (4-1-12 Edition)

to common trust funds, see § 1.6032-1 of this chapter (Income Tax Regulations).

§ 301.6033-1 Returns by exempt organizations.

For provisions relating to the requirement of returns by exempt organizations, see § 1.6033-1 of this chapter (Income Tax Regulations).

§ 301.6033-4 Required use of magnetic media for returns by organizations required to file returns under section 6033.

(a) *Returns by organizations required to file returns under section 6033 on magnetic media.* An organization required to file a return under section 6033 on Form 990, "Return of Organization Exempt from Income Tax," or Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation," must file its Form 990 or 990-PF on magnetic media if the organization is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year ending with or within its taxable year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an organization required to file a return under section 6033 fails to file an information return on magnetic media when required to do so by this section, the organization is deemed to have failed to file the return. (See section 6652 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6652-2(f) and rules similar to the rules in § 301.6724-1(c)(3) (undue eco-

nomic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Return required under section 6033.* The term *return required under section 6033* means a Form 990, "Return of Organization Exempt from Income Tax," and Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation," along with all other related forms, schedules, and statements that are required to be attached to the Form 990 or Form 990-PF, and all members of the Form 990 series of returns, including amended and superseding returns.

(3) *Determination of 250 returns.* For purposes of this section, an organization is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the organization, the organization is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, an organization is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the organization, the organization is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(3) of this section. In the example, the organization is a calendar year taxpayer:

Example. In 2006, Organization T, with total assets in excess of \$10 million, is required to file one Form 990, "Return of Organization

Internal Revenue Service, Treasury

§ 301.6036-1

Exempt from Income Tax,” 200 Forms W-2, “Wage and Tax Statement,” one Form 940, “Employer’s Annual Federal Unemployment (FUTA) Tax Return,” four Forms 941, “Employer’s Quarterly Federal Tax Return,” and 60 Forms 1099-MISC, “Miscellaneous Income.” Because T is required to file 266 returns during the calendar year, T must file its 2006 Form 990 electronically.

(f) *Effective/applicability dates.* This section applies to any organization required to file Form 990 for a taxable year ending on or after December 31, 2006, that has total assets as of the end of the taxable year of \$10 million or more. This section applies to any organization required to file Form 990-PF for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(3) of this section, which is applicable for taxable years ending on or after November 13, 2007.

[T.D. 9363, 72 FR 63811, Nov. 13, 2007]

§ 301.6033-5 Disclosure by tax-exempt entities that are parties to certain reportable transactions.

(a) *In general.* For provisions relating to the requirement of the disclosure by a tax-exempt entity that it is a party to certain reportable transactions, see § 1.6033-5 of this chapter (Income Tax Regulations).

(b) *Effective date/applicability date.* This section applies with respect to transactions entered into by a tax-exempt entity after May 17, 2006.

[T.D. 9492, 75 FR 38710, July 6, 2010]

§ 301.6034-1 Returns by trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c).

For provisions relating to the requirement of returns by trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c), see § 1.6034-1 of this chapter (Income Tax Regulations).

[T.D. 8026, 50 FR 20757, May 20, 1985]

§ 301.6035-1 Returns of officers, directors, and shareholders of foreign personal holding companies.

For provisions relating to the requirement of returns by officers, directors, and shareholders of foreign personal holding companies, see §§ 1.6035-1

to 1.6035-3, inclusive, of this chapter (Income Tax Regulations).

§ 301.6036-1 Notice required of executor or of receiver or other like fiduciary.

(a) *Receivers and other like fiduciaries—(1) Exemption for bankruptcy proceedings.* (i) A bankruptcy trustee, debtor in possession or other like fiduciary in a bankruptcy proceeding is not required by this section to give notice of appointment, qualification or authorization to act to the Secretary or his delegate. (However, see the notice requirements under the Bankruptcy Rules.)

(ii) Paragraph (a)(1)(i) of this section is effective for appointments, qualifications and authorizations to act made on or after January 29, 1988. For appointments, qualifications and authorizations to act made before the foregoing date, 26 CFR 301.6036-1 (a)(1) and (4)(i) (revised as of April 1, 1986) apply.

(2) *Proceedings other than bankruptcy.* A receiver in a receivership proceeding or a similar fiduciary in any proceeding (including a fiduciary in aid of foreclosure), designated by order of any court of the United States or of any State or Territory or of the District of Columbia as in control of all or substantially all the assets of a debtor or other party to such proceeding shall, on, or within 10 days of, the date of his appointment or authorization to act, give notice thereof in writing to the district director for the internal revenue district in which the debtor, or such other party, is or was required to make returns. Moreover, any fiduciary in aid of foreclosure not appointed by order of any such court, if he takes possession of all or substantially all the assets of the debtor, shall, on, or within 10 days of, the date of his taking possession, give notice thereof in writing to such district director.

(3) *Assignment for benefit of creditors.* An assignee for the benefit of a creditor or creditors shall, on, or within 10 days of, the date of an assignment, give notice thereof in writing to the district director for the internal revenue district in which the debtor is or was required to make returns. For purposes of this subparagraph, an assignee for the benefit of creditors shall be any